

EXHIBIT D

JOSEPH WHITTEMORE

June 1, 2006

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

C.A. NO. 04-11842-PBS

* * * * *

SCOTT RODGERS, *

Plaintiff *

vs. *

CORRECTION OFFICER ORCHID, *

UNKNOWN CORRECTION OFFICER JOHN *

DOE, JOE WHITMORE, DR. HOWARD, *

JOHN SMITH, PLYMOUTH COUNTY, *

Defendants *

* * * * *

DEPOSITION OF JOSEPH A. WHITTEMORE

HRONES, GARRITY & HEDGES

Lewis Wharf Bay, Suite 232

Boston, Massachusetts

June 1, 2006 11:15 a.m.

Maryellen Coughlin

Registered Professional Reporter

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

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1 crushed at Plymouth County? How did you know, 2 let's put it that way?	1 Naprosyn. Is that the official -- is that a 2 brand name, or is that the official scientific 3 name of the medicine?
3 MR. BREEN: Objection.	4 A. That's a brand name.
4 A. We just knew because we were, 5 because that was the policy, to crush psych meds 6 and anything potential to be abused.	5 Q. What's the official scientific 6 name?
7 Q. But is it written down somewhere?	7 A. Naproxen sodium.
8 A. Yes.	8 Q. Can you describe what it's given 9 for?
9 Q. Where is that?	10 MR. BREEN: Objection.
10 A. In the policies.	11 A. It's a nonsteroidal 12 anti-inflammatory/analgesic/antipyretic.
11 Q. Which particular policy?	13 Q. What does all that mean?
12 A. Probably the 600 series. It's the 13 medical department's book of policies.	14 A. It means it reduces fevers, it 15 reduces inflammation, it relieves pain. It's 16 very similar to Advil or Motrin. They're the 17 same class of drug.
14 Q. So in that 600 series policy, 15 you're saying there's a list of individual names 16 of medicines that need to be crushed?	18 Q. What color is it?
17 A. No, not individual names.	19 A. Depending on the dosage and 20 manufacturer, it could be any color.
18 Categories of medications.	21 Q. What type of category of drug does 22 it fall under?
19 Q. And so then you based on your 20 training you're saying, determine whether a 21 particular medicine fits in that category?	23 A. It's a nonsteroidal 24 anti-inflammatory.
22 MR. BREEN: Objection.	
23 A. Yes.	
24 Q. Are you familiar with all the	
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1 different medicines that were given out at 2 Plymouth County?	1 Q. Does it have any known side 2 effects?
3 A. Yes.	3 MR. BREEN: Objection.
4 Q. So you always knew what category a 5 given medicine fit into?	4 A. Yes.
6 A. Yes. It's your responsibility to 7 know what you're giving them.	5 Q. What are they?
8 Q. And so by that same token, then, 9 you would always know which medicines should be 10 crushed and which shouldn't?	6 A. G.I. upset, stomach upset. Also, 7 it increases bleeding.
11 A. Correct.	8 Q. Bleeding where?
12 Q. And this is based solely on that 13 policy, not on conversations with Dr. Howard; is 14 that what you are saying?	9 MR. BREEN: Objection.
15 MR. BREEN: Objection.	10 A. Anywhere. Bruising. It just makes 11 you more apt to bleed.
16 A. Yes.	12 Q. Anything else?
17 Q. Did he ever tell you, well, we're 18 going to go a little bit beyond the policy and 19 crush some other medicines that aren't on there?	13 A. That's the big one.
20 A. No.	14 Q. What type of conditions is it 15 prescribed to treat?
21 Q. Or vice versa, we're not going to 22 crush these even though they should be?	16 MR. BREEN: Objection.
23 A. No.	17 Q. You can answer.
24 Q. Now, let's talk a little bit about	18 A. Okay. Pain, rheumatism.
	19 Q. Does that mean arthritis?
	20 A. Yes.
	21 Q. Any other conditions that it's 22 given to treat?
	23 MR. BREEN: Objection.
	24 A. No. It's a pain reliever.

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<p>1 Headaches. I mean, you could take it for that. 2 Just general malaise, pain, inflammation. 3 Q. Now, during the period of August 4 2001, Scott Rodgers was prescribed Naprosyn 5 during that time period, right? 6 A. Yes. 7 Q. How long was he on it? 8 A. I don't know. 9 Q. Is there something that would 10 refresh your memory as to when he was put on it? 11 A. Possibly. 12 Q. Can we mark this, please. 13 (Exhibit No. 1 was marked 14 for identification.) 15 Q. Just take a look at this document 16 here. Specifically we'll start with the first 17 page, but you can take a look at the whole thing, 18 if you want. 19 MR. BREEN: Do you want him to read 20 the whole thing? 21 MR. TUMPOSKY: At some point, yeah. 22 If you want to do it now or as I go through it, 23 it's up to you. 24 MR. BREEN: Okay. Read the whole</p>	<p>1 Q. How can you tell? 2 A. I know his writing, and he signed 3 it here (indicating). 4 Q. Where? 5 A. Right there (indicating). 6 MR. BREEN: Let me state that the 7 original document doesn't have an orange line 8 through it on a particular entry. 9 MR. TUMPOSKY: Sure. 10 A. And he signed it here (indicating), 11 I believe, as well. 12 Q. 'Cause no one else would be, other 13 than a doctor would write a physician's order out 14 I would assume, right? 15 MR. BREEN: Objection. 16 A. At the time he had a physician's 17 assistant who would write orders who was also -- 18 Q. Who? 19 A. Steve McCabe I think was the PA at 20 the time. It was either Steve McCabe who was the 21 PA or Donna Feeney who was the nurse 22 practitioner, but they could write orders. Also, 23 our psychiatrist could write orders, and the 24 orthopedic PA would write orders.</p>
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<p>1 thing. Take your time. 2 MR. TUMPOSKY: Why don't we just 3 separate out actually the first page and start 4 with that, and we'll call the first page an 5 exhibit by itself. 6 MR. BREEN: That's fine with me. 7 MR. TUMPOSKY: Okay. And the rest 8 of it we'll mark as a separate exhibit. 9 MR. BREEN: Exhibit 1 would be one 10 page, then? 11 MR. TUMPOSKY: Yes. 12 Is that your handwriting? 13 A. No. 14 Q. What is this document that we are 15 marking as Exhibit 1? 16 MR. BREEN: If you know. 17 Q. If you know. 18 A. It's a doctor's order sheet. 19 Q. So that would imply that it was 20 Dr. Howard who wrote this? 21 MR. BREEN: Objection. 22 Q. Can you tell by looking at the 23 writing on the document who wrote it? 24 A. Yeah, Dr. Howard. Dr. Howard.</p>	<p>1 Q. But you couldn't, right? 2 A. No, I couldn't, no. 3 Q. Can you read the writing on this 4 document? 5 A. Most of it, yeah. 6 Q. Can you tell me in your own words 7 what it says? 8 A. He's ordered Celexa 20 milligrams 9 once a day for 30 days. He's ordered us to get 10 the old records at Neponset Health Center in 11 Dorchester and Dorchester House of Correction. 12 He's ordered a bottom bunk. He's ordered 13 Naprosyn 500 milligrams twice a day. Old records 14 from Mass. General Hospital. He's given 15 permission for him to have a knee support. And 16 he's written Clonidine 0.1 milligrams twice a day 17 for three days. 18 Q. Now, right below where it says 19 Naprosyn 500 milligrams PD, what's the next line? 20 A. It's BID times 30 days. 21 Q. So what does that mean? 22 A. It means by mouth twice a day for 23 30 days. 24 Q. And this is dated August 7th, 2001?</p>

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1 A. Yes. 2 Q. How long after a physician's order 3 is given does it go into effect? 4 A. Immediately as soon as it's taken 5 off, as soon as it's been transcribed to the 6 medication sheet. 7 Q. How long does that take? 8 A. It depends on the day. I mean, you 9 know, best case scenario within a couple of 10 hours, but sometimes they would -- it might take 11 a day. 12 Q. But at the most a day? 13 A. Generally, yeah. 14 Q. And the next day you started giving 15 Naprosyn to Scott Rodgers, right? 16 MR. BREEN: Objection. 17 A. Not necessarily. It would also 18 have to be sent from the pharmacy, so that also 19 might take a day. 20 Q. So a couple of days after this, 21 then, you started giving Naprosyn to Scott 22 Rodgers, at the latest? 23 MR. BREEN: Objection. Just for 24 clarification when you say "you," you mean	1 never used time released or buffered Naprosyn. 2 I'm not even sure if there is such a thing. 3 Q. It would say if it was time 4 released? 5 A. Yes. 6 Q. Where would it say? 7 A. It would say on the medication 8 card. It would say something like Naproxen ER 9 or, you know, extended release. It would have 10 some sort of, some sort of -- the word I'm 11 looking for is -- it would say, and it didn't. 12 It doesn't. We don't use anything in any 13 Naprosyn that's an extended release. 14 Q. Why not? 15 MR. BREEN: Objection. 16 A. Like I said, I'm not even sure if 17 there is an extended release version. It's 18 probably more probable that if anything there 19 would be maybe a buffered version, but it's not, 20 it's not widely used, if at all, even if there is 21 a buffered version. 22 Q. What's the difference between 23 buffered and extended release? 24 A. Extended release is usually coated.
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1 Mr. Whittemore. 2 MR. TUMPOSKY: I'm sorry, I mean 3 Mr. Whittemore, yes. 4 A. I don't know. 5 Q. But you did give Scott Rodgers 6 Naprosyn at some point during August 2001? 7 MR. BREEN: Same objection. 8 Q. You, Mr. Whittemore. You singular. 9 A. Yes. 10 Q. What color was it? 11 A. If I remember correctly, pink. 12 Q. What brand is that? 13 A. It's just naproxen sodium, and it 14 was issued to us by PharMerica. 15 Q. How was it given to him? 16 A. In a cup, by mouth. 17 Q. Did you watch him take it? 18 A. Yes. 19 Q. How many milligrams? 20 A. Five hundred milligrams. 21 Q. Is it time released? 22 A. No. 23 Q. How can you tell? 24 A. 'Cause it would say that. We've	1 I'm just speaking extended release medications, 2 not specifically Naprosyn, because I don't know 3 even if they do make them, but usually it's 4 coated and so it dissolves slower and it releases 5 the medication slower. 6 Q. If a buffered medicine were 7 crushed, would that affect the way it was 8 distributed to a person inside their body? 9 MR. BREEN: Objection. 10 A. Not necessarily buffered, but the 11 time release, yes, that would affect it. 12 Q. But buffered you're saying it 13 wouldn't matter? 14 A. It could. It might. I really 15 don't know. 16 Q. Did you crush the Naprosyn? 17 A. No. 18 Q. You specifically remember not 19 crushing it? 20 A. We never needed to. It was never a 21 drug to be crushed. It wasn't a psych med, and 22 there was no real potential for abuse with it. 23 Q. What other medicines was Scott 24 Rodgers taking at that time?

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